

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT JACKSON**

**NATASHA BOND, ETHEL and
ISAAC BROOKS, d/b/a TOTS,**

Plaintiffs,

V.)

CASE NO. 1:13-cv-1252

**WHIRLPOOL, MAYTAG, a
Michigan Corporation, JANICE PAGE
HOLLINGSWORTH and GARY
HOLLINGSWORTH,

Defendants.**

Chief Judge J. Daniel Breen
Mag. Judge Charmiane G. Claxton

MOTION TO DISMISS

In accordance with Rule 12 (b)(6) of the Federal Rules of Civil Procedure, Defendants Whirlpool Corporation (misidentified as “Whirlpool, Maytag”), Janice Page Hollingsworth, and Gary Hollingsworth move the Court to dismiss this cause of action for failure to state a claim upon which relief can be granted.

On April 26, 2010, Plaintiffs Natasha Bond,¹ Ethel Brooks, and Isaac Brooks filed suit in this Court alleging the same claims against the same Defendants as are presented in this action. This Court determined those claims were barred by claim preclusion and dismissed the action for failure to state a claim upon which relief can be granted. Plaintiffs appealed to the Court of Appeals for the Sixth Circuit; the appellate court affirmed this Court's dismissal of the action. Because the Court has already dismissed these claims for failure to state a claim, the claims in

¹ Determining with certainty whether Plaintiff Natasha Bond is the same person as Natasha Brooks, a plaintiff in the earlier suit, is unnecessary because Plaintiff Natasha Bond is not a proper plaintiff in this action as addressed in the Memorandum of Law filed in support of this Motion.

this action are barred by the doctrine of claim preclusion based on the Court's dismissal of the 2010 action. This suit must be dismissed.

In support of this motion, Defendants rely upon the contemporaneously filed Memorandum of Law.

Dated this 17th day of September, 2013.

Respectfully submitted,

BASS, BERRY & SIMS

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Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Motion to Dismiss** has been served by United States mail, postage prepaid, on this 17th day of September, 2013, to

Isaac H. Brooks
124 Jacob Street
Jackson, TN 38305

s/ Stephanie A. Roth

Stephanie A. Roth